

A Look at Hours Worked Under the Fair Labor Standards Act

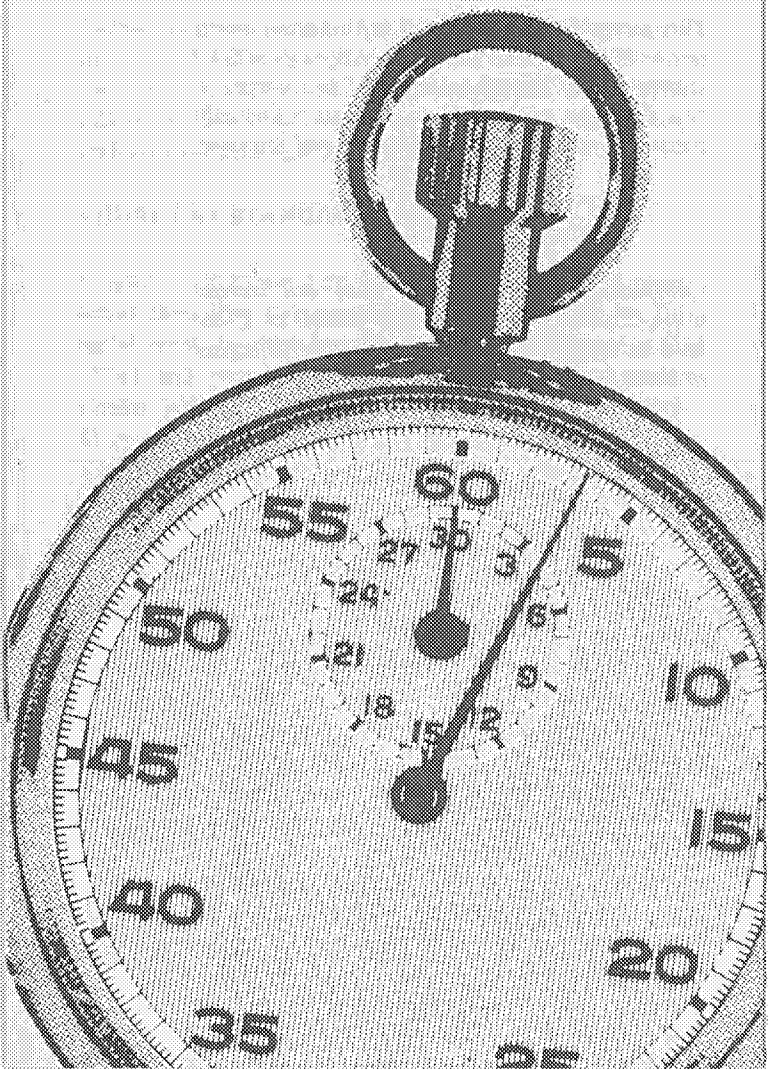


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Highlights of the Fair Labor Standards Act

The Fair Labor Standards Act sets minimum wage, overtime pay, equal pay, and child labor standards for employment subject to its provisions.

COVERAGE AND EXEMPTIONS

The Act covers every employee engaged in interstate or foreign commerce or in the production of goods for such commerce, and all employees in certain enterprises.

The Act provides exemptions from its standards for employees in certain types of employment.

WAGE AND HOUR STANDARDS

Unless exempt, covered employees must be paid a minimum wage and not less than one and one-half times their regular rates of pay for overtime work. The minimum wage and maximum hours standards are different for different types of employment.

EQUAL PAY STANDARD

Employers may not pay employees of one sex at rates lower than they pay employees of the opposite sex for equal work on jobs requiring substantially equal skill, effort and responsibility which are performed under similar working conditions in the same establishment. Most employees subject to the Act, including executive, administrative, professional and sales employees, are protected.

CHILD LABOR STANDARDS

The basic minimum age for employment is 16 except for nonagricultural occupations declared hazardous by the secretary of Labor, to which an 18-year minimum age applies. Minors 14 and 15 years of age may work outside school hours in a variety of nonmanufacturing, non-hazardous jobs for limited hours and under specified conditions. Special provisions apply in agriculture.

Employers who violate the FLSA child labor provisions or any regulation issued under them may be subject to a civil money penalty of up to \$1,000 for each violation.

This pamphlet is for general information and is not to be considered in the same light as official statements of position contained in Interpretative Bulletins and other such releases formally adopted and published in the Federal Register.

Compliance with this law does not excuse non-compliance with other Federal or State laws or local ordinances which establish higher or more restrictive standards.

Where both Federal and State child labor laws apply, the more stringent standard must be observed.

RECORD KEEPING

Every employer must maintain accurate records of earnings, hours worked, and other data required by the Regulations, Part 516. An official Poster furnished by the Wage and Hour Division must be posted where employees can readily see it.

ENFORCEMENT

Failure to pay the statutory minimum wage and overtime compensation results in cumulative back wage liabilities. Unpaid wages may be restored under the supervision of the Secretary of Labor or recovered through court action brought by the Secretary or the employees. Serious violations of the law may result in civil or criminal action. Records required by the law must be available for inspection by representatives of the Division.

DO WORKERS GET PAID FOR

- *Waiting Time?*
- *Travel Time?*
- *Lunch Hour?*

HERE ARE THE ANSWERS

Employees who are entitled to the benefits of the pay provisions of the Fair Labor Standards Act must be paid for all hours worked. Here are some of the more important rules on what time to count when computing minimum wage and overtime pay.

THE BASIC RULE

COUNT as hours worked:

All time the employee spends working on the job.

All time the employees are required to be at their place of work or on duty.

Under the Fair Labor Standards Act, the employees should be paid for all the time they spend:

Doing their jobs.

Getting ready to work. This includes such make-ready work as cleaning and oiling machines, saw filing, setting up machines, lighting fires in heating and pressing equipment, laying out their own work or that of other employees, and assembling materials.

Learning their jobs. While learning, they should be paid for watching others as well as for doing the work themselves.

Correcting their or others' work.

Preparing time slips, work tickets, and production sheets.

Getting medical care. The time the worker spends waiting for and receiving medical care should be counted as hours worked if treated at the place of work or at the employer's direction during the work day.

COUNT IT AS HOURS WORKED IF . . .

Breakdown Time

The workers must stand by until the breakdown is repaired. The workers are assigned another task during the breakdown.

The time is too short or its length too indefinite for the workers to use the time effectively for themselves.

WAITING TIME

The workers must remain on hand until work has been prepared for them.

MEAL TIME

The worker must work at meal time. Examples: An operator who must tend the machine while eating.

The worker isn't allowed enough time to eat. Usually 30 minutes is considered time enough to eat.

The worker does company business at meal time. Example: A worker who makes a bank deposit for the firm. In this case, however, the time the worker spends eating, if it is sufficient, is not counted as hours worked. But extra time spent going to and from and at the bank would be time worked.

CHANGING AND WASHING TIME

The worker must change clothes or wash on the firm's premises before or after working. This sometimes is required by the employer, by local law, or by the nature of the work. Some work must be done with special clothing, such as asbestos suits.

TRAVEL TIME

The employee drives a vehicle or rides as a helper, on the employer's business.

The worker has to travel from job to job during the workday.

The worker must carry heavy or bulky equipment while traveling.

Time spent carrying heavy or bulky packages to or from the post office also counts as time worked.

The employee works while traveling. Example: Taking care of livestock in transit.

The worker is called to make an emergency trip to a customer's house or place of business, outside regular working hours.

The worker is given a special one-day assignment in another city.

An employee, on a trip that takes him away from home overnight, travels during his regular working hours or the corresponding hours on Saturdays and Sundays.

DON'T COUNT IT AS HOURS WORKED IF . . .

The workers are told during the breakdown that they may leave for a specified time, which is long enough to use effectively for their own purposes.

The workers are waiting to be hired or waiting on their own initiative to see if work will be available.

The workers are told they are free to leave for a definite time, which is sufficiently long for effective use.

The employee is granted a bona fide meal period during which he or she is completely relieved from duty for the purpose of eating regular meals. Ordinarily, 30 minutes or more is long enough for a bona fide meal period. Coffee breaks or times for snacks which may last from 5 to 20 minutes are not meal periods and they must be paid for.

The worker's changing and washing time is expressly excluded as time worked by a collective bargaining agreement, or by custom or practice under it. If the workers change or wash only for their own convenience, it need not be counted as time worked.

The workers travel to their regular jobs in the morning and return home at the end of the day.

The worker is asked to mail a few letters on the way home.

The worker travels as a passenger outside working hours.

HOLIDAYS, VACATIONS, AND ILLNESS

Nothing in the law requires an employer to pay an employee for hours not worked because of holidays, vacation, illness, lack of work, or other similar reasons.

A FEW WORDS ABOUT TIMECLOCKS AND TIME KEEPING

The law requires that a record be kept of hours worked in each workday and each workweek. A workweek is a regularly recurring period of 168 hours in the form of

seven consecutive 24-hour periods. Any method of keeping time records is all right, as long as it is accurate and shows all hours worked.

TIMECLOCKS are good means of recording work hours, but they are not required. If there is a timeclock, note that:

In addition to the timecard punches, the number of hours worked in the workday and workweek should be written down. These figures may be noted on the timecard itself or on another record.

Timecard punches often do not show the true hours of an employee's work. Many times workers, arrive early at the plant for personal reasons and punch in right away, but they don't start work until their shifts begin. This kind of early punching may be disregarded in counting hours worked. On the other hand, workers who punch in and out with their shifts may set up machines, thread needles, or make repairs before or after punching. In that case, the time doing the makeready work should also be counted. This also would be true of work done during lunch hours.

If an employee works but doesn't punch a card, the time spent on the job still must be counted as hours worked. As far as the law is concerned, the important thing is whether the employee actually worked, not whether a time record device has been correctly used.

When workers are credited with more or fewer hours of work than the timecard punches show, and when there is a discrepancy of more than a few minutes, a brief note should be made on the timecard to explain the difference. This will avoid disputes about the time actually worked.

This folder highlights some problems about counting hours worked. The Wage and Hour Division also has an Interpretative Bulletin, Part 785, on "Hours Worked". If you want this bulletin or have any other questions about the Fair Labor Standards Act, contact the Division's nearest office.

ADDITIONAL INFORMATION

Inquiries about the Fair Labor Standards Act will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division, U.S. Department of Labor. All information is kept in strict confidence. Offices are listed in the telephone directory under Department of Labor in the U.S. Government listing.